

## Pension Benefit Guaranty Corporation

## § 4010.8

4010.9), whether a plan is an exempt plan (§4010.8(c)), and the due date for submitting the information (§4010.10(a)).

(b) *General.* Except as provided in paragraph (c) of this section, a person's information year shall be the fiscal year of the person. A filer is not required to change its fiscal year or the plan year of a plan, to report financial information for any accounting period other than an existing fiscal year, or to report actuarial information for any plan year other than an existing plan year.

(c) *Controlled group members with different fiscal years—*(1) *Use of calendar year.* If members of a controlled group (disregarding any exempt entity) report financial information on the basis of different fiscal years, the information year shall be the calendar year.

(2) *Example.* Filers A and B are members of the same controlled group. Filer A has a July 1 fiscal year, and filer B has an October 1 fiscal year. The information year is the calendar year. Filer A's financial information with respect to its fiscal year ending June 30, 1996, and filer B's financial information with respect to its fiscal year ending September 30, 1996, must be submitted to the PBGC following the end of the 1996 calendar year (the calendar year in which those fiscal years end). If filer B were an exempt entity, the information year would be filer A's July 1 fiscal year.

### § 4010.6 Information to be filed.

(a) *General.* A filer must submit the information specified in § 4010.7 (identifying information), § 4010.8 (plan actuarial information) and § 4010.9 (financial information) of this part with respect to each member of the filer's controlled group and each plan maintained by any member of the controlled group.

(b) *Additional information.* By written notification, the PBGC may require any filer to submit additional actuarial or financial information that is necessary to determine plan assets and liabilities for any period through the end of the filer's information year, or the financial status of a filer for any period through the end of the filer's information year. The information must be submitted within ten days after the

date of the written notification or by a different time specified therein.

(c) *Previous submissions.* If any required information has been previously submitted to the PBGC, a filer may incorporate this information into the required submission by referring to the previous submission.

### § 4010.7 Identifying information.

(a) *Filers.* Each filer is required to provide the following identifying information with respect to each member of the controlled group (excluding exempt entities)—

(1) The name, address, and telephone number of each member of the controlled group and the legal relationships of each (for example, parent, subsidiary); and

(2) The nine-digit Employer Identification Number (EIN) assigned by the IRS to each member (or if there is no EIN for a member, an explanation).

(b) *Plans.* Each filer is required to provide the following identifying information with respect to each plan (including exempt plans) maintained by any member of the controlled group (including exempt entities)—

(1) The name of each plan;

(2) The EIN and the three-digit Plan Number (PN) assigned by the contributing sponsor to each plan (or if there is no EIN or PN for a plan, an explanation); and

(3) If the EIN or PN of a plan has changed since the beginning of the filer's information year, the previous EIN or PN and an explanation.

### § 4010.8 Plan actuarial information.

(a) *Required information.* For each plan (other than an exempt plan) maintained by any member of the filer's controlled group, each filer is required to provide the following actuarial information—

(1) The fair market value of the plan's assets;

(2) The value of the plan's benefit liabilities (determined in accordance with paragraph (d) of this section) at the end of the plan year ending within the filer's information year;

(3) A copy of the actuarial valuation report for the plan year ending within

the filer's information year that contains or is supplemented by the following information—

(i) Each amortization base and related amortization charge or credit to the funding standard account (as defined in section 302 (b) of ERISA or section 412 (b) of the Code) for that plan year (excluding the amount considered contributed to the plan as described in section 302(b)(3)(A) of ERISA or section 412(b)(3)(A) of the Code),

(ii) The itemized development of the additional funding charge payable for that plan year pursuant to section 412(l) of the Code,

(iii) The minimum funding contribution and the maximum deductible contribution for that plan year,

(iv) The actuarial assumptions and methods used for that plan year for purposes of section 302(b) and (d) of ERISA or section 412(b) and (l) of the Code (and any change in those assumptions and methods since the previous valuation and justifications for any change), and

(v) A summary of the principal eligibility and benefit provisions on which the valuation of the plan was based (and any changes to those provisions since the previous valuation), along with descriptions of any benefits not included in the valuation, any significant events that occurred during that plan year, and the plan's early retirement factors; and

(4) A written certification by an enrolled actuary that, to the best of his or her knowledge and belief, the actuarial information submitted is true, correct, and complete and conforms to all applicable laws and regulations, provided that this certification may be qualified in writing, but only to the extent the qualification(s) are permitted under 26 CFR § 301.6059–1(d).

(b) *Alternative compliance for plan actuarial information.* If any of the information specified in paragraph (a)(3) of this section is not available by the date specified in § 4010.10(a), a filer may satisfy the requirement to provide such information by—

(1) Including a statement, with the material that is submitted to the PBGC, that the filer will file the unavailable information by the alter-

native due date specified in § 4010.10(b) of this part, and

(2) Filing such information (along with a certification by an enrolled actuary under paragraph (a)(4) of this section) with the PBGC by that alternative due date.

(c) *Exempt plan.* The actuarial information specified in this section is not required with respect to a plan that, as of the end of the plan year ending within the filer's information year, has fewer than 500 participants or has benefit liabilities (determined in accordance with paragraph (d) of this section) equal to or less than the fair market value of the plan's assets, provided that the plan—

(1) Has received, on or within ten days after their due dates, all required installments or other payments required to be made during the information year under section 302 of ERISA or section 412 of the Code; and

(2) Has no minimum funding waivers outstanding (as described in § 4010.4(c) of this part) as of the end of the plan year ending within the information year.

(d) *Value of benefit liabilities.* The value of a plan's benefit liabilities at the end of a plan year shall be determined using the plan census data described in paragraph (d)(1) of this section and the actuarial assumptions and methods described in paragraph (d)(2) or, where applicable, (d)(3) of this section.

(1) *Census data—(i) Census data period.* Plan census data shall be determined (for all plans for any information year) either as of the end of the plan year or as of the beginning of the next plan year.

(ii) *Projected census data.* If actual plan census data is not available, a plan may use a projection of plan census data from a date within the plan year. The projection must be consistent with projections used to measure pension obligations of the plan for financial statement purposes and must give a result appropriate for the end of the plan year for these obligations. For example, adjustments to the projection process will be required where there has been a significant event (such as a plan amendment or a plant shutdown)

that has not been reflected in the projection data.

(2) *Actuarial assumptions and methods.* The value of benefit liabilities shall be determined using the assumptions and methods applicable to the valuation of benefits to be paid as annuities in trustee plans terminating at the end of the plan year (as prescribed in §§ 4044.51 through 4044.57 of this chapter).

(3) *Special actuarial assumptions for exempt plan determination.* Solely for purposes of determining whether a plan is an exempt plan, the value of benefit liabilities may be determined by substituting for the retirement age assumptions in paragraph (d)(2) the retirement age assumptions used by the plan for that plan year for purposes of section 302(d) of ERISA or section 412(l) of the Code.

#### § 4010.9 Financial information.

(a) *General.* Except as provided in this section, each filer is required to provide the following financial information for each controlled group member (other than an exempt entity)—

(1) Audited financial statements for the fiscal year ending within the information year (including balance sheets, income statements, cash flow statements, and notes to the financial statements);

(2) If audited financial statements are not available by the date specified in § 4010.10(a), unaudited financial statements for the fiscal year ending within the information year; or

(3) If neither audited nor unaudited financial statements are available by the date specified in § 4010.10(a), copies of federal tax returns for the tax year ending within the information year.

(b) *Consolidated financial statements.* If the financial information of a controlled group member is combined with the information of other group members in consolidated financial statements, a filer may provide the following financial information in lieu of the information required in paragraph (a) of this section—

(1) The audited consolidated financial statements for the filer's information year or, if the audited consolidated financial statements are not available by the date specified in § 4010.10(a),

unaudited consolidated financial statements for the fiscal year ending within the information year; and

(2) For each controlled group member included in the consolidated financial statements that is a contributing sponsor of a plan (other than an exempt plan), the contributing sponsor's revenues and operating income for the information year, and net assets at the end of the information year.

(c) *Subsequent submissions.* If unaudited financial statements are submitted as provided in paragraph (a)(2) or (b)(1) of this section, audited financial statements must thereafter be filed within 15 days after they are prepared. If federal tax returns are submitted as provided in paragraph (a)(3) of this section, audited and unaudited financial statements must thereafter be filed within 15 days after they are prepared.

(d) *Submission of public information.* If any of the financial information required by paragraphs (a) through (c) of this section is publicly available, the filer, in lieu of submitting such information to the PBGC, may include a statement with the other information that is submitted to the PBGC indicating when such financial information was made available to the public and where the PBGC may obtain it. For example, if the controlled group member has filed audited financial statements with the Securities and Exchange Commission, it need not file the financial statements with PBGC but instead can identify the SEC filing as part of its submission under this part.

(e) *Inclusion of information about non-filers and exempt entities.* Consolidated financial statements provided pursuant to paragraph (b)(1) of this section may include financial information of persons who are not controlled group members (e.g., joint ventures) or are exempt entities.

#### § 4010.10 Due date and filing with the PBGC.

(a) *Due date.* Except as permitted under paragraph (b) of this section, a filer shall file the information required under this part with the PBGC on or before the 105th day after the close of the filer's information year.